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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,
15 Plaintiff,
16 v.
17 BARRY HOUSE,
18 Defendant.

Case No.: CR 14-196 CRB

**NOTICE OF MOTION AND MOTION
FOR COMPASSIONATE RELEASE
PURSUANT TO 18 U.S.C. § 3582(c)(1)(A)**

20 TO: DAVID L. ANDERSON, UNITED STATES ATTORNEY, NORTHERN DISTRICT OF
21 CALIFORNIA; AND WILLIAM FRENTZEN, ASSISTANT UNITED STATES ATTORNEY
22

23 PLEASE TAKE NOTE that on May 20, 2020 at 1:30 p.m., Defendant Barry House will move
24 this Court for compassionate release pursuant to the First Step Act, 18 U.S.C. § 3582(c)(1)(A). This
25 motion will be based on the following memorandum, all relevant statutory provisions, case law,
26 administrative materials, and such argument as the Court will entertain at the hearing. Given the
27 time sensitive nature of this motion, Mr. House requests that the matter be heard by the Court on
28 May 20, 2020, pursuant to the accompanying Unopposed Motion to Expedite Briefing and Hearing.

1 **I. INTRODUCTION**

2 Defendant Barry House respectfully moves this Court pursuant to the First Step Act (FSA)
 3 for an order granting compassionate release and resentencing him to a time served sentence,
 4 followed by a three-year term of supervised release with an 8-month home confinement condition to
 5 replace the 4 months of custody and 4 months of home confinement/halfway house time that remains
 6 on his sentence. Mr. House has already served over three quarters of his prison sentence (77.5%) for
 7 a § 922(g) violation in which he sold two guns (including relevant conduct rules) to the undercover
 8 agent in the *Chow* matter. His projected statutory release date is February 10, 2021, and absent First
 9 Step Act consideration, his “normal” home confinement consideration date would be the last 10% of
 10 his sentence; September 18, 2020. *See* Declaration of Elizabeth Falk (“Falk Decl.”) at Exhibit C, p.
 11 D3. Given Mr. House’s exemplary record with the BOP and the emphasis on release of low-risk
 12 offenders in the face of the pandemic, it is highly likely that the BOP will release Mr. House to home
 13 confinement anyhow in September. By means of this motion, Mr. House thus realistically seeks a
 14 small modification of this Court’s original sentence; the conversion of 4 months of actual prison time
 15 to home confinement in order to lessen the risk that he contracts COVID-19 given his current
 16 medical ailments and significant injury.

17 Mr. House is at risk of serious illness or death if he is infected by the coronavirus. He is 50-
 18 years old and suffers from severe sleep apnea, high blood pressure, anemia, respiratory issues,
 19 obesity, hypertension, and heart problems. These are all risk factors according to the Center for
 20 Disease Control (CDC). Mr. House is currently (and somewhat inexplicably) housed at the
 21 Metropolitan Detention Center in Los Angeles, where the Bureau of Prisons (BOP) reports a staff
 22 member has already tested positive for coronavirus. At nearby Terminal Island Prison in San Pedro,
 23 California, there are a surging number of cases – 620 inmates testing positive out of 1055. *See*
 24 [https://www.dailybreeze.com/2020/05/04/6th-inmate-with-coronavirus-dies-at-terminal-island-](https://www.dailybreeze.com/2020/05/04/6th-inmate-with-coronavirus-dies-at-terminal-island-prison-in-san-pedro/)
 25 [prison-in-san-pedro/](https://www.dailybreeze.com/2020/05/04/6th-inmate-with-coronavirus-dies-at-terminal-island-prison-in-san-pedro/) (last visited May 12, 2020).

26 As he promised the Court at sentencing, Mr. House has taken advantage of his time in
 27 custody to improve himself. He has had no disciplinary reports. *See* Falk Decl., Exhibit B. Further,
 28 he has worked numerous jobs in the prison system, including maintenance positions painting cells

1 and repairing broken recreational prison facilities. He has also worked as a barber in custody, and
 2 prior to transfer to MDC LA, earned over 20 certificates in educational and psychological
 3 programming. *See* 4/15/2020 Declaration of Barry House, attached hereto as Exhibit 1. If he were
 4 resentenced to time-served and released from custody with a home-confinement condition, Mr.
 5 House has a stable residence to return to in Pittsburgh, CA from which he could quarantine and
 6 shelter-in-place. Once restrictions on employment are lifted and he can attend to his facial
 7 reconstruction (explained below), Mr. House has employment promised to him through Wrights Cuts
 8 in Pittsburgh, CA as a barber. Although he was unable to maintain his marriage to his wife due to
 9 incarceration, his fiancé Shenell Jacobs is gainfully employed in the Pittsburgh school district and is
 10 able to provide for his basic needs during home confinement. For all these reasons, Mr. House
 11 requests that the Court resentence him to time served followed by three years of supervised release,
 12 modified to include 8 months of home confinement.

13 **II. JURISDICTION**

14 On December 21, 2018, the President signed the FSA into law. Among the reforms,
 15 Congress amended 18 U.S.C. § 3582(c)(1)(A) to provide the sentencing judge jurisdiction to
 16 consider a defense motion for reduction of sentence based on extraordinary and compelling reasons
 17 “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of
 18 Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a
 19 request by the warden of the defendant’s facility, whichever is earlier[.]” 18 U.S.C. § 3582(c)(1)(A).

20 Mr. House has exhausted his administrative remedies with BOP. He submitted an
 21 administrative request to the warden MDC LA for compassionate release on April 15, 2020, which
 22 as of May 11, 2020 has gone unanswered.¹ House Decl., Exhibit 1 at ¶ 2 (attached). As a matter of
 23 law, Mr. House will therefore have exhausted his administrative remedies by the time of the May 20,
 24

25
 26 ¹ It is extremely difficult to set up legal calls at MDC Los Angeles at the current time,
 27 particularly given Mr. House’s current medical issues. Counsel was able to set up a phone call
 28 for May 11, 2020 after submitting a written request a week prior by email. During the May 11,
 2020 call, Mr. House attested that his April 15, 2020 request (attached hereto as Exhibit 1),
 which he submitted to the Warden on April 15 2020, has gone unanswered.

1 2020 hearing, (“30 days after the receipt of [his] request by the warden of the defendant’s facility.”)
 2 See 18 U.S.C. § 3582(c)(1)(A).

3 III. FACTUAL BACKGROUND

4 A. Mr. House’s risk factors put him at severe risk of death from coronavirus, and a 5 recent traumatic injury during the pandemic will be unnecessarily hard to manage 6 during the COVID-19 crisis.

7 On June 30, 2018, while in custody at FCI Sheridan, Mr. House was rushed to the Willamette
 8 Valley Medical Center ER by ambulance because he thought he was having a heart attack. See Falk
 9 Decl., Exhibit A at D00360; D00215-217. At the hospital, he was admitted and diagnosed with
 10 hypertension and arrhythmia. *Id.* at D00363, D00365. Because of his “strong family history of heart
 11 problems,” and “hyperlipidemia” he was hospitalized overnight for observation. Per BOP records,
 12 Mr. House is currently diagnosed with cardiac arrhythmia, and hypertension. *Id.* at D00284. He is
 13 also currently being treated at the BOP for irregular heart palpitations and heartbeat, as he recently
 14 had an irregular EKG. *Id.* at D00091, D00031.

15 Mr. House has long suffered from high blood pressure. He takes medications to control this
 16 and his high cholesterol. *Id.* at D00298, 00299. *Id.* Because he has sleep apnea, he uses a CPAP
 17 machine while in custody. *Id.* at 00284. In BOP custody, Mr. House routinely takes Lisinopril and
 18 Hydrochlorothiazide to control his high blood pressure, Atorvastatin to control his high cholesterol,
 19 and aspirin and Carvedilol (beta-blocker) for his irregular PVCs (premature ventricular contractions).
 20 *Id.* at D00129-132. Under the CDC’s Body Mass Index (BMI) guidelines, Mr. House is also
 21 considered obese with a BMI of 36.3. *Id.* at D0046.² As the Court is very likely aware, these are all
 22 serious risk factors for coronavirus according to the CDC (although the CDC defines “severe
 23 obesity” as a BMI of over 40).³

24 On May 1, 2020, Mr. House was “jumped” by a recent transfer inmate to MDC LA with

25 ² See NIH, Calculate Your Body Mass Index,
 26 https://www.nhlbi.nih.gov/health/educational/lose_wt/BMI/bmicalc.htm
 (May 12, 2020).

27 ³ See CDC, Coronavirus Disease 2019 (COVID-19), Groups at Higher Risk for Severe Illness,
 28 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>
 (May 12, 2020).

1 severe mental health issues. *See id.* at D0010-D0022. Despite concerns about medical transit due to
 2 the ongoing pandemic, Mr. House's injuries to his left eye bone and nose were so severe and he
 3 required transportation to the White Memorial Hospital emergency room, where he remained until
 4 his discharge on May 5, 2020. *Id.* at D0010. He now requires urgent consultation with an oral facial
 5 surgeon and orbital surgeon as a result of this attack; he made his first consultation in the private
 6 sector on May 7, 2020. *Id.* at D00017-19. Mr. House now likely needs urgent surgery as a result of
 7 these multiple fractures to his eye and face, which is an extremely difficult situation to manage in the
 8 face of the COVID-19 pandemic even were Mr. House able to see doctors out of custody. The
 9 surgeries cannot wait, however, thus prompting Mr. House's urgent motion to this Court. *Id.* The
 10 urgent traumatic facial injuries that will require extensive outpatient consultation and a likely
 11 surgery, coupled with Mr. House's COVID-19 risk factors overall are the basis of his request for this
 12 Court's resentencing.

13 B. The underlying case and the Court's original sentence.

14 On January 8, 2018, Mr. House received a 48 month sentence from this Court as
 15 punishment for his sale of two firearms to UC-4599 for \$1400 after being connected through
 16 co-defendant Keith Jackson. *See PSR, Docket 2049, at ¶ 70.* Unlike many of his co-
 17 defendants, Mr. House's illegal actions occurred at the very end of this protracted
 18 investigation; in February, 2014. *Id.* He was charged on April 4, 2014 for one count of
 19 violating 18 U.S.C. §922(a)(1), Dealing Firearms Without a License, and two counts of 18
 20 U.S.C. § 922(g)(1), Felon-in-Possession. *Id.* at ¶ 10. Mr. House made his initial appearance
 21 on March 26, 2014, and spent over six months detained in pretrial custody. *Id.* After resolving
 22 probation issues in another county and posting a secured bond, Mr. House was released from
 23 custody on October 21, 2014 and remained out of custody on an ankle monitor for over three
 24 years until his self-surrender to the BOP in April, 2018. *Id.; see also Docket 2052, Order for*
 25 *Voluntary Surrender.*

26 Mr. House entered an open guilty plea to one count of Felon-in-Possession (Count 9 of
 27 the Superseding Indictment) on April 26, 2017. *Id.* at ¶ 8. At sentencing, defense counsel
 28 filed a 28-page sentencing memorandum as well as a declaration with lengthy attachments

1 arguing that House had fully rehabilitated in the three years he had remained on pretrial release.
 2 See Docket 1947, 1957, 1969. His sentencing package contained 15 letters of support from
 3 friends, family members and individuals who worked with Mr. House in the community. *Id.* at
 4 Docket his 1969. This Court noted his level of community support as “unusual” and his path of
 5 rehabilitation post-arrest “remarkable” and “extraordinary.” See Transcript, Docket 1993 at
 6 100-101.

7 Nothing in Mr. House’s BOP records now detracts from this Court’s initial view as to
 8 Mr. House’s rehabilitation. He has not incurred a single disciplinary infraction while in BOP
 9 custody. Falk Decl., Exhibit B. Moreover, Mr. House has earned over 20 certificates while at
 10 FCI Sheridan and has remained employed full-time while at the BOP in both maintenance and
 11 the Recreation departments, as an orderly and a barber. See Exhibit 1, attached.

12 IV. ARGUMENT

13 A. **“Extraordinary and compelling reasons” exist to resentence Mr. House to time served 14 in order to save him from a risk of serious illness or death and to allow him to continue treatment for his shattered facial bones out of custody.**

15 This Court has discretion to reduce the term of imprisonment imposed in this case based on §
 16 3582(c)(1)(A), which states in relevant part that the Court “may reduce the term of imprisonment,
 17 after considering the factors set forth in [18 U.S.C. §] 3553(a) to the extent they are applicable, if it
 18 finds that . . . extraordinary and compelling reasons warrant such a reduction...and that such a
 19 reduction is consistent with applicable policy statements issued by the Sentencing Commission[.]”
 20 In 28 U.S.C. § 994(t), Congress delegated to the Sentencing Commission the authority to “describe
 21 what should be considered extraordinary and compelling reasons for sentence reduction, including
 22 the criteria to be applied and a list of specific examples.”

23 As relevant here, the examples of “extraordinary and compelling reasons” in U.S.S.G. §
 24 1B1.13 include that Mr. House is, by virtue of his coronavirus risk factors, “suffering from a
 25 physical or medical condition” that “substantially diminishes the ability of [Mr. House] to provide
 26 self-care *within the environment of a correctional facility* and from which he or she is not able to
 27 recover.” U.S.S.G. § 1B1.13, App. Note 1 (emphasis added). Consistent with the standard, Mr.
 28 House cannot effectively provide self-care for himself at this moment at MDC LA. His risk factors,

1 from which he cannot “recover,” combined with coronavirus’ spread into the MDC and the crowded
 2 custodial environment in his unit, which does not permit effective social-distancing or other
 3 preventative measures, constitute extraordinary and compelling reasons to resentence Mr. House to
 4 time served.

5 Numerous courts, including this one, have arrived at this conclusion and granted motions for
 6 compassionate release on very similar grounds. *United States v. Trent*, Case No. 16-CR-178 WHA,
 7 ECF No. 106 (N.D. Cal. Apr. 9, 2020) (“Confined to a small cell where social distancing is
 8 impossible, Trent cannot provide self-care because he cannot protect himself from the spread of a
 9 dangerous virus.”); *United States v. Burrill*, No. 17-CR-00491 RS, ECF No. 308 (N.D. Cal. Apr. 10,
 10 2020) (granting compassionate release on same grounds); *see also United States v. Rodriguez*, 03-
 11 CR-0271 AB, ECF No. 135 (E.D. Pa. Apr. 1, 2020) (“the outbreak of COVID-19 and underlying
 12 medical conditions that place [defendant] at a high risk should he contract the disease” justified
 13 release); *United States v. Zukerman*, No. 1:16-cr-194-AT, ECF No. 116 (S.D.N.Y. Apr. 3, 2020)
 14 (“[t]he severity of Zukerman’s conduct remains unchanged. What has changed, however, is the
 15 environment where Zukerman is serving his sentence. When the Court sentenced Zukerman, the
 16 Court did not intend for that sentence to ‘include a great and unforeseen risk of severe illness or
 17 death’ brought on by a global pandemic.”).⁴

18 In addition, U.S.S.G. § 1B1.13, App. Note 1(D), provides a catch-all provision for
 19 “extraordinary and compelling reason other than, or in combination with, the reasons described in
 20 subdivisions (A) through (C)” as determined by the Director of BOP. Because this policy statement
 21 was passed by the Sentencing Commission prior to the FSA (and the Sentencing Commission
 22

23 ⁴ See also *United States v. Colvin*, No. 19-cr-00179, 2020 WL 1613493 (D. Conn. Apr. 2,
 24 2020); *United States v. Hernandez*, No. 18-cr-00834, 2020 WL 1684062 (S.D.N.Y. Apr. 2,
 25 2020); *United States v. Resnick*, No. 14-cr-00810, 2020 WL 1651508 (S.D.N.Y. Apr. 2, 2020);
United States v. Edwards, No. 17-cr-00003, 2020 WL 1650406 (W.D. Va. Apr. 2, 2020);
United States v. Perez, No. 17-cr-00513, 2020 WL 1546422 (S.D.N.Y. Apr. 1, 2020); *United*
States v. Rodriguez, No. 03-cr-00271, 2020 WL 1627331 (E.D. Pa. Apr. 1, 2020); *United*
States v. Gonzales, No. 18-cr-00232, 2020 WL 1536155 (E.D. Wash. Mar. 31, 2020); *United*
States v. Muniz, No. 09-cr-00199, 2020 WL 1540325 (S.D. Tex. Mar. 30, 2020); *United States*
v. Campagna, No. 16-cr-00078, 2020 WL 1489829 (S.D.N.Y. Mar. 27, 2020).

1 remains without a quorum), the majority of courts have found that the sentencing court may assume
 2 the discretion exercised by the Director of BOP in determining whether such “other” “extraordinary
 3 and compelling reasons” to resentence the defendant in the absence of a new policy statement. *See,*
 4 *e.g.*, *United States v. Fox*, No. 2:14-cr-03-DBH, 2019 WL 3046086, *3 (D. Me. July 11, 2019)
 5 (stating that the existing policy statement provides “helpful guidance,” but “is not ultimately
 6 conclusive given the statutory change”).

7 In *United States v. Redd*, for example, the court explained that “Application Note 1(D)’s
 8 prefatory language, which requires a determination by the BOP Director, is, in substance, part and
 9 parcel of the eliminated requirement that relief must be sought by the BOP Director in the first
 10 instance.” *United States v. Redd*, No. 97-CR-00006 AJT, 2020 WL 1248493, at *7 (E.D. Va. Mar.
 11 16, 2020) (citing cases). Numerous other courts have agreed (including this Court) and held that the
 12 sentencing court may exercise its discretion to identify such “other” “extraordinary and compelling”
 13 reasons to resentence. *United States v. Perez*, No. 88-10094-1-JTM, 2020 WL 1180719, at *2 (D.
 14 Kan. Mar. 11, 2020) (“[A] majority of federal district courts have found that the most natural reading
 15 of the amended § 3582(c) and § 994(t) is that the district court assumes the same discretion as the
 16 BOP director when it considers a compassionate release motion properly before it.” (internal
 17 quotation marks omitted)).⁵ Many of these decisions have been handed down in opinions granting
 18 compassionate release to inmates who have coronavirus risk factors like Mr. House.⁶

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 20
 21 ⁵ See also *United States v. Brown*, 411 F. Supp. 3d 446, 450 (S.D. Iowa Oct. 8, 2019); *United*
22 States v. Urkevich, 2019 WL 6037391, at *3 (D. Neb. Nov. 14, 2019); *United States v. Ebbers*,
 --- F. Supp. 3d ----, 2020 WL 91399, at *4 & n. 6 (S.D.N.Y. Jan 8, 2020); *United States v.*
23 Schmitt, 2020 WL 96904, at *3 (N.D. Iowa Jan. 8, 2020); *United States v. Maumau*, 2020 WL
 806121, at *4 (D. Utah Feb. 18, 2020); *United States v. O’Bryan*, 2020 WL 869475, at *2 (D.
 24 Kansas Feb. 21, 2020); *United States v. Young*, 2020 WL 1047815 at *6 (M.D. Tenn. Mar. 4,
 2020); *United States v. Redd*, 2020 WL 1248493, at * 7 (E.D. Va. Mar. 16, 2020); *United*
25 States v. Owens, 97 CR-2546, ECF No. 93 at *4 (S.D. Cal. Mar. 23, 2020); *United States v.*
Decator, 2020 WL 1676219, at *2-3 (D. Md. Apr. 6, 2020).

26 ⁶ See, e.g., *United States v. Rodriguez*, No. 03-CR-00271-AB, 2020 WL 1627331, at *4 (E.D.
 27 Pa. Apr. 1, 2020); *United States v. Kataev*, 16 Cr. 763-05, 2020 WL 1862685, at *2 (S.D.N.Y.
 28 Apr. 14, 2020); *United States v. McPherson*, No. CR94-5708RJB, 2020 WL 1862596, at *4
 (W.D. Wash. Apr. 14, 2020); *United States v. Almontes*, No. 3:05-CR-58 (SRU), 2020 WL
 1812713, at *3 (D. Conn. Apr. 9, 2020).

1 Thus, Mr. House submits that this additional ground provides a basis for granting the motion.
 2 Specifically, the extraordinary public health crisis created by the coronavirus, the impossibility of
 3 maintaining social distancing at MDC LA, the fact that the virus has already entered the prison, and
 4 finally, Mr. House's own personal vulnerability to the disease due to his heart arrhythmia, high blood
 5 pressure and obesity, all support the conclusion that resentencing is appropriate in this case.

6 **B. Mr. House's Recent Injuries Further Merit a Resentencing So He Can Spend the Last
 7 8 months of his Sentence on Home Confinement While Attending to His Facial
 Reconstruction**

8 The real urgency of the undersigned's motion to the Court, however, is Mr. House's current
 9 facial trauma. Mr. House was attacked at MDC LA on May 1, 2020 and was immediately rushed to
 10 a public emergency room outside of the BOP medical system. He was subsequently admitted to the
 11 hospital and was not discharged until May 5, 2020. As this Court undoubtedly knows, hospitals
 12 these days are not prone to keeping individuals overnight for much of anything; the fact that this
 13 hospital kept Mr. House, a BOP inmate that long readily demonstrates that the instant injury is no
 14 small matter. Nor is it inconsequential that the BOP medical staff itself has made 2 urgent referrals
 15 to outpatient orbital and facial reconstruction surgeons as recent as last week. Mr. House's condition
 16 in this regard is not terminal but it is a serious medical issue is only made more complicated by the
 17 COVID-19 pandemic.

18 The BOP is trying desperately to prevent inmates from coming into close contact with anyone
 19 outside of their facilities. Visiting has been suspended, as has inmate transport. Urgent medical
 20 issues, however, still require transport, and the BOP is dutifully attending to Mr. House's need for
 21 outside medical treatment. As Mr. House was informed, current policy at MDC LA mandates that
 22 inmates who are in Mr. House's position are quarantined for 14 days in isolation following any
 23 contact outside the facility. When the undersigned spoke to Mr. House on May 11, 2020, he was
 24 being housed in "the hole" in isolation due to the fact that he had been taken to see the orbital
 25 specialist. Though the BOP undoubtedly does not mean this action against Mr. House as
 26 "punishment" but instead as a safety precaution, it is nonetheless extremely uncomfortable to be
 27 housed outside his regular unit given the injuries he has suffered.

1 At this juncture, given all the relevant factors, it is frankly an idiotic waste of BOP staff
 2 resources, taxpayer dollars, and an unnecessary risk to both the BOP staff and inmates at MDC LA
 3 and Mr. House to continue to incarcerate him for an additional 4 months while transporting him to
 4 orbital and facial reconstruction specialists rather than commute his sentence and place him on
 5 supervised release with a home confinement component to “replace” the lost prison time.⁷

6 **C. Mr. House has been rehabilitated and will shelter in place at home; the § 3553(a)
 factors counsel in favor of resentencing to time served.**

7 In considering Mr. House’s request, the Court should consider post-offense developments
 8 under § 3553(a), which provides “the most up-to-date picture” of the defendant’s history and
 9 characteristics and “sheds light on the likelihood that [the defendant] will engage in future criminal
 10 conduct.” *Pepper v. United States*, 562 U.S. 476, 490-93 (2011).

11 First, of course, a serious pandemic to which Mr. House is uniquely vulnerable is spreading
 12 through California prisons, has made its way into MDC LA, and is decimating nearby BOP facilities
 13 such as Lompoc and Terminal Island. Although the defense appreciates that BOP is taking some
 14 precautions to protect inmates, the reality is that prisons are uniquely dangerous environments for
 15 people like Mr. House right now. BOP does not have the resources to humanely isolate vulnerable
 16 inmates like Mr. House, nor does it have coronavirus testing kits adequate to monitor the inmates at
 17 MDC LA. Should Mr. House become ill, BOP may not discover it for some time, and he may be
 18 delayed in receiving life-saving medical care. By contrast, at home, Mr. House can shelter in place
 19 with his family and arrange his own, private-sector facial reconstruction care.

20 The sentencing statute specifically contemplates “the need for the sentence imposed … to
 21 provide the defendant with needed educational or vocational training, medical care, or other

22
 23
 24 ⁷ As of September 18, 2020, Mr. House will be eligible for transfer to home confinement or a
 25 halfway house under the regular course. See Falk Decl., Exhibit C. At the time of the May 20,
 26 2020 hearing, Mr. House will be 4 months away from that course of action which routinely
 27 occurs for inmates without detainers for the last 10% of their sentences. Mr. House instead
 28 suggests here that the Court resentence him and release him forthwith and modify the terms
 and conditions of his supervision such that he be placed on home confinement for 8 months,
 until February 10, 2021, which is his statutory “good time” release date and the day the BOP
 would consider his sentence completed absent loss of good time credits.

1 correctional treatment in the most effective manner," *see* § 3553(a)(2)(D), and under the
 2 circumstances, the defense submits, consideration for Mr. House's health deserves significant
 3 weight.

4 *Second*, and perhaps even more importantly, Mr. House has made good on his promise to the
 5 Court at sentencing to rehabilitate himself during his time in custody. He has participated in
 6 significant programming while in custody in order to maintain his sobriety. He has not had any
 7 disciplinary problems that would suggest that he is not doing well. He even serves as an orderly,
 8 barber, and recreational coordinator in his unit. Again, the sentencing statute supports resentencing
 9 given Mr. House's positive record and rehabilitation. *Id.*

10 *Third*, Mr. House no longer poses a threat to himself or the community. Looking forward, he
 11 is also likely to be an asset to his community, as he has ambitions of starting a small business and
 12 furthering his education. Finally, he would certainly be an asset to his family if released, as Mr.
 13 House's son suffers from significant health problems.

14 *Fourth*, in terms of just punishment, deterrence, promoting respect for the law, and public
 15 safety, several considerations are relevant. Most importantly, Mr. House has already served a very
 16 substantial portion of his statutory custodial sentence— 77.5%. Falk Decl., Exhibit C. Second, Mr.
 17 House has never been convicted of a violent felony. Third, the case, though certainly serious, does
 18 not involve any particularly troubling, aggravating factors. As argued at sentencing, Mr. House
 19 readily admitted he sold both charged guns to UC-4599, but certainly did not threaten, point, or fire
 20 the firearms at anyone. For three years on pretrial release he wore an ankle monitor and incurred
 21 minimal violations of that monitoring program. Finally, for the foreseeable future Mr. House
 22 intends to remain at home sheltering in place with his fiancé. And of course, the Court retains the
 23 authority to modify the conditions of supervised release at any time before the expiration of the
 24 probation period, should any changes to the plan be necessary. 18 U.S.C. § 3563(c); Fed. R. Crim. P.
 25 32.1(a).

26 As the defense explained in its sentencing memoranda, Mr. House is, at heart, a man with
 27 strong community ties who deeply loves his children and his community. He has worked hard in
 28 prison to better himself and make the best of a difficult situation. He asks that the Court credit that

1 effort, given the current public health crisis and his record of positive reform.

2 **V. CONCLUSION**

3 For the foregoing reasons, Mr. House respectfully requests that the Court resentence him to
4 time served followed by three years of supervised release.

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7 Respectfully submitted,

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9 May 12, 2020
10 Date

STEVEN G. KALAR
Federal Public Defender
Northern District of California

11 /S
12 ELIZABETH M. FALK
13 Assistant Federal Public Defender

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